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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into)	
Implementation of Federal Communications)	Rulemaking 04-12-001
Commission Report and Order 04-87, as It)	(Filed December 2, 2004)
Affects the Universal Lifeline Telephone)	
Service Program.)	
)	

REPLY COMMENTS OF

SUREWEST TELEPHONE (U 1015 C)

AND

**CALAVERAS TELEPHONE COMPANY (U 1004 C); CAL-ORE TELEPHONE CO.
(U 1006 C); DUCOR TELEPHONE COMPANY (U 1007 C); FORESTHILL TELEPHONE CO.
(U 1009 C); HAPPY VALLEY TELEPHONE COMPANY (U 1010 C); HORNITOS
TELEPHONE COMPANY (U 1011 C); KERMAN TELEPHONE CO. (U 1012 C); PINNACLES
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TELEPHONE COMPANY, INC. (U 1016 C); THE SISKIYOU TELEPHONE COMPANY
(U 1017 C); VOLCANO TELEPHONE COMPANY (U 1019 C), and WINTERHAVEN
TELEPHONE COMPANY (U 1021 C)
(the "Small LECs")**

**ON ASSIGNED COMMISSIONER'S RULING
SETTING SCOPE OF PHASE 2**

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I. INTRODUCTION.

As called for by the November 14, 2007 Assigned Commissioner's Ruling Setting Scope of Phase 2 ("Phase 2 ACR"), and in keeping with the December 19, 2007 email ruling from ALJ Jones extending the deadline for reply comments to January 18, 2008, SureWest Telephone (U 1015 C), Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company, (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone Company (U 1021 C) (collectively, "SureWest and the Small LECs") hereby reply to the issues raised in opening comments on the Phase 2 ACR.

Seven sets of opening comments were filed on December 14, 2008 in this docket, each providing suggestions about the scope and direction of Phase 2. The comments were from the following parties and groups of parties: AT&T, Verizon, Cox, SDG&E/SoCal Gas ("Sempra"), SureWest/Small LECs, the Division of Ratepayer Advocates ("DRA"), and TURN/NCLC/Disability Rights Advocates/Latino Issues Forum ("Consumer Groups"). The primary topic of discussion in the opening comments was whether or not the Commission should revise its policy of requiring LifeLine discounts to be issued to customers before those customers have completed the certification process. SureWest and the Small LECs continue to feel strongly that the adoption of a pre-qualification procedure would be the single most beneficial change to the program that the Commission could adopt.

As set forth in SureWest and the Small LECs' opening comments, and as amplified in the AT&T and Verizon opening comments, a pre-qualification system would come with numerous advantages over the current process. This change in policy would eliminate the widespread back-billing problems that customers have experienced under the existing rules, and provide better incentives for customers to return LifeLine certification forms in a timely manner. Accordingly, a pre-qualification regime would minimize costs to carriers and reduce administrative burdens on the Commission. The Consumer Groups' suggestions that pre-qualification will erect barriers to participation in the LifeLine program are exaggerated. Pre-qualification is not a "band-aid solution to a deeper certification problem," as DRA

asserts. *DRA Opening Comments*, at p. 1. Rather, it is the primary tool that the Commission can use to fix the certification process and relieve customers of certification-related back-billing.

Regarding the other issues being explored in Phase II of this proceeding, SureWest and the Small LECs agree with many of the perspectives offered in opening comments.¹ SureWest and the Small LECs agree with the Consumer Groups and DRA that the Commission must retain the income-based avenue for attaining LifeLine-eligible status. SureWest and the Small LECs support some form of web-based enrollment, but are concerned that the current development of a web-based system between Solix and the Commission has not been sufficiently transparent. Moreover, the Commission should certainly continue exploring ways to coordinate the LifeLine program with other low-income programs; however, for the reasons stated in many of the opening comments, the significant differences in the certification protocols and income levels in other programs will prevent a high degree of coordination in many cases. The customer privacy issues and governmental database restrictions should also be explored in this proceeding before any sort of “automatic enrollment” or similar process is put in place between LifeLine and another program. The problem with “unscannable mail” also merits examination in Phase II.

Some issues raised in opening comments are outside the proper scope of this proceeding. The Commission should not impose any further “in language” rules on carriers in connection with the LifeLine program, as DRA’s comments imply. *DRA Opening Comments*, at p. 8. “In language” issues are already being addressed in an ongoing proceeding, R.07-01-021, and any proposals in this arena should be presented in that docket. Similarly, this proceeding should not be a platform for imposing any new carrier reporting requirements regarding LifeLine certification rates, as the Consumer Groups’ comments suggest. *Consumer Groups Opening Comments*, at p. 12.

¹ In many areas, the opening comments reflect a high level of consensus. Some of this consensus can be attributed to the fact that an open dialogue on these issues has been ongoing between the Commission, carriers, consumer groups, and Solix through the LifeLine “working groups.” SureWest and the Small LECs commend the Commission for providing this forum to discuss issues of significance to the various stakeholders.

II. THE EXPERIENCES UNDER THE EXISTING LIFELINE CERTIFICATION PROCESS CONSTITUTE A CHANGED CIRCUMSTANCE THAT JUSTIFIES ADOPTION OF A PRE-QUALIFICATION REGIME.

A. The Opening Comments Provide Strong Support for Adoption of a Pre-qualification Procedure for LifeLine Certification.

Verizon and AT&T echo SureWest and the Small LECs' sentiments regarding the merits of pre-qualification. *Verizon Opening Comments*, at pp. 2-6; *AT&T Opening Comments*, at pp. 1-4. As the large ILECs observe, adopting a pre-qualification system will have several tangible benefits. First, it will reduce the costs of the program by eliminating the processing costs, administrative costs, and claims-related costs associated with customers who receive initial discounts, but are later deemed ineligible. Second, it will reduce the burdens on LifeLine applicants associated with back-billing for LifeLine discounts that have been provided to customers who fail the certification process. Third, it will erect better incentives for customers to expeditiously and diligently complete the certification process. Fourth, it would bring the LifeLine program into full compliance with the FCC's LifeLine / Linkup Order (FCC 04-87). *See Verizon Opening Comments*, at p. 4. Fifth, SureWest and the Small LECs believe that a pre-qualification system would significantly reduce the burdens that the Commission's Consumer Affairs Branch is experiencing in fielding and processing LifeLine complaints and appeals.

Other parties' opening comments also acknowledge the advantages of certifying eligibility before LifeLine discounts are issued. Sempra support pre-qualification because it would "eliminate the customer financial burden resulting from back-billing," and because it would help align LifeLine with the low-income energy programs, both of which rely on pre-qualification. *Sempra Opening Comments*, at p. 1. Even Cox, who advises caution in adopting a pre-qualification system, recognizes that "a pre-qualification process would simplify the enrollment process both for Solix and carriers." *Cox Opening Comments*, at p. 3.

B. The Arguments Against Pre-qualification Do Not Correctly Weigh the Customer Impacts and the Carrier Costs under the Current System.

In light of all the problems that have arisen since the initiation of the certification process, the Consumer Groups' testimonials in favor of the current system are misplaced. It is true, as the Consumer Groups note, that the Commission previously evaluated pre-qualification and selected a "first contact" system instead. *See Consumer Groups Opening Comments*, at p. 4. As the Phase II ACR acknowledges, the time has come to revisit this policy decision. Circumstances have changed, and the "first contact" system has proven to be unworkable. It has generated a host of negative unintended consequences for customers and carriers alike, as detailed in the opening comments of SureWest and the Small LECs and the opening comments of the large ILECs. SureWest and the Small LECs opposed the "first contact" system throughout this proceeding. Unfortunately, many of the concerns that were expressed with this system earlier in the proceeding have come to pass. The Commission is not bound by its previous decisions on this subject. The problems with the current system provide an ample basis for the Commission to move in a different direction, and it should do so.

Although no certification system will be perfect, the benefits of a pre-qualification system outweigh the benefits of the current system. Under the current system, customers receive considerable discounts without providing any evidence of eligibility, and then they are penalized heavily through back-billing if they do not properly demonstrate that eligibility. Accordingly, although they experience lower up-front fees, these customers are potentially subject to massive rate shock if the certification process goes wrong for one reason or another. SureWest and the Small LECs believe that this kind of unexpected rate shock can scare customers off the network, potentially for good. Indeed, various consumer representatives have expressed exactly that sentiment throughout this proceeding. This type of outcome is clearly contrary to the Commission's universal service objectives.

By contrast, a pre-qualification system would have higher up-front costs, but would confer a windfall on customers whenever they complete the certification process. Under this procedure, there is

virtually no possibility of LifeLine-related back-billing, and no corresponding possibility that customers will be shocked into abandoning telephone service. Although it is not ideal that LifeLine-eligible customers would have to pay the full costs of establishing telephone service, this is a better outcome than under the current system.

In developing a pre-qualification process, the Commission should also create a way for customers to provide evidence of LifeLine eligibility in advance of establishing telephone service. If a swift, web-based mechanism existed to facilitate approval within a matter of minutes, hours, or days rather than weeks or months, customers would have the option to qualify prior to setting up service, thereby avoiding deposits and installation charges. This would allow customers to avoid the high up-front costs of pre-qualification altogether. Of course, they would still retain the option to pay the up-front costs, and receive back-credits.

As SureWest and the Small LECs pointed out in opening comments, the option to spread out an installation fee over a three-month period also significantly reduces the burden of the upfront fees under a pre-qualification system. On page 7 of their opening comments, the Consumer Groups outline the “month one” costs that a prospective LifeLine customer would experience under SureWest’s pricing. The figures in that chart are essentially correct, but it should be noted that the \$114.72 in the “full rate” column would be reduced by approximately \$33.00 if the customer elected to spread the installation costs over a three-month period. Again, if the customer complies with the certification process in a timely manner, the up-front costs listed in the Consumer Groups’ chart could be reimbursed within one month. As stated above, a system for certifying customers prior to service initiation would be an even better solution.

On the subject of pre-qualification, the Consumer Groups’ and DRA’s comments contain a few misconceptions that merit correction. First, DRA incorrectly assumes that creating further efficiencies in Solix’s processing protocols will solve the problems that customers are experiencing under the current

program. *DRA Opening Comments*, at p. 2. While SureWest and the Small LECs also support various proposed refinements to Solix's procedures, DRA's assumption is inaccurate. As long as customers receive discounts prior to certification, they will need to have time to receive certification documents and return them to Solix. Under the current system, the prospect of significant back-billing will continue to exist even if Solix becomes more efficient. Moreover, there will always be instances where prospective LifeLine customers misplace their forms or improperly submit the forms. Where this occurs, substantial back-bills would still result, regardless of improvements in Solix's processing. The "root cause" of the problems is not an "interface issue," as DRA suggest. SureWest and the Small LECs continue to believe that the decision to issue credits before certification is the primary cause of many of the problems that remain with the LifeLine certification process.

Second, DRA states that "prequalification does not address the inappropriate backbilling that could occur during verification." *DRA Opening Comments*, at p. 3. Aside from verification audits, and the possibility that verification customers may be improperly subjected to the certification process, as described in SureWest and the Small LECs' opening comments, back-billing does not regularly occur in connection with verification. It is true that pre-qualification does not address verification-related back-billing, but SureWest and the Small LECs are not aware of what back-billing DRA has in mind.

Third, the Consumer Groups assert that "the impact of backbilling on the carrier should be minimal because the Commission allows carriers to seek reimbursement from the Fund for bad debt expenses" *Consumer Groups Opening Comments*, at p. 4. While the rules do permit bad debt recovery, the existing system has created numerous problems for carriers. Most significantly, the administrative costs associated with responding to customer inquiries regarding the process, and in resolving problems that have arisen in connection with the program, have been quite significant. Further, as discussed in the opening comments of SureWest and the Small LECs, the federal claims

process has been significantly more complicated under the current, “first contact” system. For the benefit of customers and carriers alike, the Commission should move to a pre-qualification process.

C. The “Hybrid” Certification Proposals Offered By DRA and the Consumer Groups Should be Rejected.

Both DRA and the Consumer Groups offer proposals that would combine elements of the “first contact” system with pre-qualification. Neither of these proposals should be adopted, given the customer confusion and administrative costs that they would engender. DRA proposes that customers be given the choice between the current process and the proposed pre-qualification process. *DRA Opening Comments*, at p. 3. This dualistic approach would create even more uncertainty amongst customers than exists under the current system, and would make it very difficult for carriers and the Commission to answer customer questions about how the process works. Moreover, it is not clear how carriers would distinguish between pre-qualified customers and “certification pending” customers in their systems. Attempting to maintain both of these systems would be extraordinarily expensive and confusing, and would surely exacerbate the data transfer and interface issues between carriers and the Certifying Agent.

The Consumer Groups propose that installation fees and deposits should be entirely deferred for customers applying for LifeLine. *Consumer Group Opening Comments*, at p. 8. While some additional ability to spread out these costs might be explored, deferring these costs until completion of the certification process would still implicate most of the back-billing problems that exist under the current system. Neither of the “hybrid” options presented in opening comments are preferable to a pure pre-qualification system.

III. THE INCOME-BASED ELIGIBILITY MECHANISM FOR LIFELINE CERTIFICATION SHOULD BE RETAINED, AT LEAST IN THE SHORT-TERM.

The elimination of the income-based prong of the certification process would be premature at this juncture. As a general matter, SureWest and the Small LECs agree with Verizon’s sentiments that a

pure program-based system would promote “administrative simplicity.” *Verizon Opening Comments*, at p. 6. At some date, a move toward such a system may well be appropriate. However, given the number of customers that rely on the income-based process, and the evolving nature of the program-based process, it is not clear at this point the latter can fully supplant the former as a way to demonstrate LifeLine eligibility. As the Consumer Groups note, there is no guarantee that program-based eligibility can continue to achieve the high levels of LifeLine penetration that have existed among low-income California households. *Consumer Groups Opening Comments*, at p. 9.

SureWest and the Small LECs support AT&T’s statements on this matter that the Commission evaluate whether to eliminate income-based eligibility criteria over an “extended transition period” in which all of the variables can be fully examined. If the program-based functions become sufficiently robust, that will pave the way for a mass shift away from income-based certification. As this occurs, the Commission should continue to evaluate the need for the income-based process.

IV. FULL COORDINATION BETWEEN THE LIFELINE PROGRAM AND OTHER LOW-INCOME PROGRAMS MAY NOT BE POSSIBLE GIVEN THE PROGRAM DIFFERENCES AND OTHER ISSUES THAT SUCH COORDINATION WOULD INEVITABLY RAISE.

SureWest and the Small LECs support the Commission’s efforts to further coordinate the LifeLine program with other low-income programs, whether those programs are administered by the Commission or another state or federal agency. However, as the opening comments demonstrate, there are important limitations on the extent to which participation in other programs can be viewed as a proxy for LifeLine eligibility. As Verizon points out, automatic enrollment between the Commission’s energy and water low-income programs and the LifeLine program is impracticable because those other programs rely on self-certification. *Verizon Opening Comments*, at p. 9. Moreover, the eligibility criteria for those other programs do not match up in all respects. Indeed, in R.01-08-027, the Commission initiated and completed a proceeding designed specifically to evaluate synergies between the California Alternative Rates for Energy (“CARE”) program and LifeLine program (then called

“ULTS”). In the decision concluding that proceeding, the Commission declined to adopt automatic enrollment of CARE-eligible customers in Lifeline, based on concerns that the program criteria do not properly match up. These obstacles remain today, and they have become even more significant in light of the FCC policy prohibiting self-certification.

As the Sempra comments highlight, the potential problems with coordination between programs go beyond just the disparate certification processes and eligibility requirements. Sempra notes that “confidentiality of customer information is another major issue that needs to be addressed before synergies between the California LifeLine program and the energy utilities’ programs can be achieved.” *Sempra Opening Comments*, at p. 4. Under Public Utilities Code Section 2891, the FCC’s CPNI Rules (See 47 U.S.C. § 222), and a variety of other state and federal authorities, carriers are limited in their abilities to share customer information with third parties. The California Information Practices Act also places limitations on government agencies who compile personal information about California residents. Cal. Civ. Code § 1798, *et seq.* Customer confidentiality must be preserved in the creation of any system for sharing program information between carriers and/or government agencies. This is a particularly important concern where the information under consideration relates to income levels and the receipt of government benefits, items that customers may well regard as highly confidential.

V. A WEB-BASED ENROLLMENT SYSTEM CAN HELP STREAMLINE THE CERTIFICATION PROCESS, BUT ALL STAKEHOLDERS SHOULD BE ABLE TO PARTICIPATE IN CREATING AND EVALUATING THIS PROCESS.

As SureWest and the Small LECs have urged throughout this proceeding, a highly functional web-based certification process would facilitate greater participation in the LifeLine program, and would reduce the administrative expense and confusion associated with the current system. The web-based enrollment system should be integrated with the existing functions of the Certifying Agent, and it should be monitored by the Commission.

From participation in the “implementation working group” conference calls, SureWest and the Small LECs understand that a web-based enrollment process is currently being developed. However, thus far, the development of the system has occurred through unilateral discussions between Commission staff and Solix, the current Certifying Agent. Commission staff have indicated during the “implementation working group” conference calls that the proposal for web-based enrollment will eventually be presented to carriers and other interested parties. To mitigate implementation problems and unintended consequences, the web-based system should be shared with all stakeholders as soon as reasonably possible. Carriers and consumer groups should have an opportunity to provide meaningful comment on the proposal before it is finalized, and the Commission should be willing to make changes – even significant ones – based on that input. The web-based system can be an important part of the Commission’s LifeLine program, and the Commission should have the benefit of all perspectives in crafting the system so that problems can be addressed *before* they arise.

AT&T’s observations about web-based enrollment provide useful information about how California’s system should be structured. The Commission should carefully consider the strengths and limitations of the Illinois, Wisconsin, and Florida systems to structure a system for California that maximizes enrollment without burdening carriers or the Commission.

VI. THE COMMISSION SHOULD EXPLORE WAYS TO REMEDY THE PROBLEM WITH “UNSCANNABLE MAIL.”

SureWest and the Small LECs agree that the problem with “unscannable mail” is significant. In opening comments, several parties offered suggestions on how to address the problem. Through consumer education and outreach efforts, the issue should naturally diminish over time. In the meantime, AT&T’s proposal to place a second bar code under the signature line should be considered, as well as the proposal to put the customer’s telephone number in two locations. *AT&T Opening Comments*, at p. 7. More generally, the Commission should re-examine the manner in which the Certifying Agent identifies customers to determine whether bar codes are actually necessary, or whether

some other identifying mechanism would be possible. Workshops could be an appropriate forum for such a discussion, perhaps in connection with the expected examination of the web-based system.

VII. NO NEW “IN LANGUAGE” RULES OR CERTIFICATION RATE REPORTING REQUIREMENTS SHOULD BE ADOPTED.

SureWest and the Small LECs do not object to DRA’s suggestion that the web-based system should include “in language” information. *DRA Opening Comments*, at p. 8. However, in evaluating this issue, the Commission should ensure that it does not interfere with the ongoing examination of “in language” issues in R.07-01-021. For example, the Commission should not create the expectation through the web-based enrollment system that every carrier will be offering “in language” support. Consistent with the Phase I Rules in the LEP proceeding, only carriers who meet the “in language marketing” trigger are required to provide such support (although carriers who are not doing marketing may voluntarily provide “in language” support of various kinds). The Commission should be careful not to create false expectations through any “in language” functionality on the web interface. In any event, this proceeding would not be the appropriate place to modify or supplement the “in language” rules being addressed in R.07-01-021, a proceeding which is devoted specifically to developing such rules.

Similarly, the Commission should not impose any additional reporting obligations on carriers in Phase II of this proceeding. The Consumer Groups suggest that carrier-specific data about LifeLine certification rates may be useful in Phase II to detect problems with a carrier’s LifeLine procedures, or with the manner in which the LifeLine certification procedures interact with carrier’s customer population. *Consumer Groups Opening Comments*, at p. 12. Based on General Order 153’s specific requirements, carriers’ certification practices will be identical in most respects. However, to the extent that the Commission wants to detect carrier-specific problems, those will come to light through the appeal and complaint process administered by CAB. To the extent that further certification data is useful, that can be obtained directly from Solix. There is no cause for additional report from carriers in this regard.

VIII. CONCLUSION.

SureWest and the Small LECs appreciate the opportunity to help shape the analysis in Phase II of this proceeding. The Commission should incorporate the above suggestions into its plans for Phase II.

SureWest and the Small LECs look forward to further participation in Phase II as it moves forward.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Noel Gielegthem, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California Street, 17th Floor, San Francisco, CA 94111.

On January 18, 2008, I served the following:

**REPLY COMMENTS OF
SUREWEST TELEPHONE (U 1015 C)**

AND


**CALAVERAS TELEPHONE COMPANY (U 1004 C); CAL-ORE TELEPHONE CO.
(U 1006 C); DUCOR TELEPHONE COMPANY (U 1007 C); FORESTHILL TELEPHONE CO.
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TELEPHONE COMPANY (U 1021 C)
(the "Small LECs")**

**ON ASSIGNED COMMISSIONER'S RULING
SETTING SCOPE OF PHASE 2**

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 18, 2008 at San Francisco, California.



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